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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Yvonne Gonzalez Rogers, Judge

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)
In Re: Social Media)
Adolescent Addiction/Personal) NO. 22-md-03047-YGR
Injury Products Liability)
Litigation)
)
_____)

Oakland, California
Friday, March 3, 2023

TRANSCRIPT OF PROCEEDINGS

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1 Friday - March 3, 2023

9:09 a.m.

2 P R O C E E D I N G S

3 ---000---

4 **THE CLERK:** Now calling 22-md-03047-YGR, In re:
5 Social Media Adolescent Addiction/Personal Injury Products
6 Liability Litigation.

7 Will counsel please come forward.

8 **THE COURT:** Okay. And as will be the practice, the
9 record, in terms of who is here for the parties, will be
10 reflected in the document that was sent to us in terms of
11 attendees. If you're not on that document and you want to be
12 noted in the record, then make sure that you send us an amended
13 list. Okay?

14 All right. We have a lot to do today. I'll go through
15 the issues in the Case Management Statement. We need to deal
16 with the implementation order, the common benefit order, the
17 guardians ad litem, sealing orders, medical record collections,
18 to name a few; right? Just a short list of things to do this
19 morning. A little bit different from my bank robbery yesterday
20 or, I should say, this week.

21 So who are we going to have -- probably different people
22 for different issues.

23 Let's see. Who is going to start on the plaintiffs' side
24 giving me some updates in terms of who is going to be doing
25 what?

1 **MS. HAZAM:** Your Honor, thank you. Lexi Hazam for
2 plaintiffs.

3 We have divided presentations today by topic. Going in
4 the order of the status conference statement, the first topic
5 is the plaintiffs' selection of their best claims for motions
6 to dismiss, and Mr. Warren will handle that topic for us.

7 The next topic is the specifications for defendants'
8 motion to dismiss. That is agreed upon. Happy to address that
9 if Your Honor would like.

10 That is followed --

11 **THE COURT:** I would always like -- when people tell me
12 they want to file hundred-page briefs, yes, I would like.

13 **MS. HAZAM:** Fine, Your Honor. I'm happy to address
14 that when Your Honor sees fit.

15 Should I continue?

16 **THE COURT:** No. We're going to go through the list.
17 Go ahead.

18 **MS. HAZAM:** Third would be the Short Form Complaint
19 and implementation order. Ms. Jennifer Scullion of Seeger
20 Weiss will handle that for plaintiffs.

21 **THE COURT:** Okay.

22 **MS. HAZAM:** Number 4, the proposed coordination order.
23 I can handle that for plaintiffs to the extent Your Honor wants
24 to discuss it.

25 **THE COURT:** Okay.

1 **MS. HAZAM:** Number 5, defendants' proposed filing
2 requirements. I will also handle that for plaintiffs.

3 **THE COURT:** Okay.

4 **MS. HAZAM:** Number 6, discovery-related orders. For
5 the most part, I will also handle that for plaintiffs. Those
6 are generally updates on status of meet-and-confers and
7 proposed deadlines.

8 Number 7, mediator selection. Mr. Seeger will handle that
9 for plaintiffs.

10 Number 8, proposed common benefit order. That part of
11 number 8 shall be handled by Mr. Seeger and the proposed
12 sealing order shall be handled by Mr. Warren for plaintiffs.

13 And finally, other updates any of us are prepared to
14 handle, Your Honor.

15 **THE COURT:** Okay.

16 Ms. Jones, do you want to come to the mic and let me know
17 how you have broken it up. If it's the same issues, that's
18 great. If there are other issues, let me know.

19 **MS. JONES:** Certainly. And good morning, Your Honor.
20 Nice to see you.

21 For the priority claims issue, that will be Mr. Schmidt
22 speaking on behalf of the defendants.

23 To the extent that the Court would like to discuss the
24 proposed specifications for the motion to dismiss briefing, I
25 suspect Mr. Schmidt will also cover that. The Short Form

1 Complaint topic will also be Mr. Schmidt.

2 On the topics of the coordination order and the
3 defendants' proposed filing requirements, that will be me.

4 For any discovery-related orders, Ms. Simonsen will be
5 arguing or addressing those for the Court.

6 Mr. Schmidt will be handling any discussion related to
7 mediators.

8 Ms. Pierson will be handling any discussion related to the
9 common benefit order.

10 And to the extent that there are other updates, I will
11 take a stab at handling those for the defense.

12 **THE COURT:** Okay. And "Pierson," I'm not seeing --
13 oh, "Pierson," there it is. Great.

14 Then let's start with -- we'll do it in your own order,
15 and then I'll go back and check my own notes. We'll start with
16 the plaintiffs' selection. I take it Mr. Warren, Mr. Schmidt
17 to the mics.

18 Okay. As I understand it from your Case Management
19 Statement, plaintiff has picked 5: Count 1, strict liability
20 design; Count 2, failure to warn; Count 3, negligent design;
21 Count 4, negligent failure; and Count 10, negligence per se;
22 correct?

23 **MR. WARREN:** That's correct, Your Honor.

24 **THE COURT:** All right. Mr. Warren, we have a lot to
25 do. I'm going to make this real simple.

1 The suggestion that I'm going to look at one state is not
2 acceptable, period.

3 I thought I explained to all of you when you were here
4 that this is a massive case, and we cannot do this piecemeal.
5 If I'm going to look at whether or not the plaintiffs have
6 stated a claim under strict liability design, I am going to
7 look at all the law with respect to that issue. It makes no
8 sense to me that somehow I would look under New York law and
9 then avoid and ignore the rest of the law of the United States.

10 What I suggested was that when you brief this, you can do
11 majority rules, you can do minority rules, and perhaps you have
12 outliers, but I am not going to take the approach that you are
13 suggesting, and I see no logical reason to do so.

14 You can respond.

15 **MR. WARREN:** Very well, Your Honor.

16 Well, we -- I believe we're trying to follow how we
17 interpreted Your Honor's direction and nothing more, and
18 hearing what you're saying, we'll proceed on that basis.

19 The only thing I would add is that in our examination of
20 these various laws, they do not, unfortunately, bucket cleanly
21 into majority or minority states. We looked for patterns like
22 that, and we didn't find it quite so cleanly, I think in part
23 because many states have not addressed the issue of whether an
24 app like the ones at issue here are or not products for
25 purposes of product liability law. But we take Your Honor's

1 direction and --

2 **THE COURT:** And it could be that there is no law.
3 Perhaps there is no law, in which case there is no law for any
4 state, in which case, you know, maybe we're looking at the
5 Restatement. I don't know. But what I don't want to do is be
6 myopic when you were seeking to represent adolescents across
7 the United States.

8 **MR. WARREN:** Of course. Of course, Your Honor. And
9 we never understood that we would be taking this piecemeal in
10 the sense of having to brief 50 states.

11 What we thought your direction was, is that we would pick
12 the best states on the best claims so that we could ascertain
13 whether discovery could be opened, and then in a second phase,
14 defendants would of course be able to structure their motion to
15 dismiss however they saw fit, to group the remaining states in
16 however they saw fit, and present that to the Court.

17 **THE COURT:** Yeah, but I'm not going to open discovery
18 if -- if 49 states say there's no strict liability and one
19 state says there is. Well, perhaps I could open discovery for
20 one state for 10 plaintiffs or whatever you have, but I'm not
21 going to open discovery for all plaintiffs in all states if 49
22 states don't say that you have a claim. It makes no sense.

23 **MR. WARREN:** Very well, Your Honor. We understand
24 your direction.

25 **THE COURT:** Right. And principles of federalism here

1 control. I mean, the reason that I'm trying to have you narrow
2 is so that we can continue to make some progress, but it
3 doesn't mean that it's easy.

4 **MR. WARREN:** Very well. We understand what you're
5 saying, and we, you know -- we're confident we have the better
6 of the argument in all the states, and so we'll brief that in
7 this round.

8 And, again, we were doing nothing more than trying to
9 interpret the direction we thought you had given about picking,
10 you know, quote, whoever's stated as I don't care, but we will
11 do as you say and of course adjust it.

12 **THE COURT:** Let me also say, just as a general
13 matter -- and I, frankly, am not exactly sure why lawyers do
14 it.

15 You all quote things back to me all the time, but I have
16 in my head what I thought, and context matters.

17 So I may have said something in hour one of our
18 conversation, and after spending three hours with you, at the
19 end of it, I may have said something entirely different at the
20 end.

21 So I can appreciate that you're -- that perhaps I, in
22 fact, said that, but I didn't go back to check the transcript
23 to determine what the entire context of my statement was. And
24 I'm letting you all know now I won't. I just don't have time
25 to do that.

1 So I don't know if you do it to get points with the other
2 side or what it is -- why it is that you all do that. So why
3 is it that you do that?

4 **MR. WARREN:** Well --

5 **THE COURT:** I mean, it's not as if I wasn't here.

6 **MR. WARREN:** Your Honor, if I may, we really were not
7 trying to engage in some exercise of cherry-picking the
8 transcript and, you know, having some selective reading. We
9 really were trying to interpret what we thought your direction
10 was, and, you know, that took a little bit of work, and we
11 understood part of the issue to be you had asked us to pick our
12 five or six, quote, best claims, and that, I think, was
13 something that came through repeatedly. What we struggled with
14 was the --

15 **THE COURT:** Right. And I think that these are -- that
16 these are the five.

17 **MR. WARREN:** Right. And we were just struggling to
18 understand how to take that direction and marry it to the fact
19 that state law varies, and clearly we missed and misunderstood
20 what you were going for, and -- and, you know, there it is, but
21 there wasn't anything -- there wasn't any intentionality other
22 than just trying to determine what all you wanted us to do.

23 **MR. SCHMIDT:** On our end, Your Honor, I would simply
24 say when Your Honor makes statements about issues, this issue
25 or something else, we don't want Your Honor to think we're not

1 listening to what Your Honor said, and so we were trying to,
2 where we did quote, quote it in terms of trying to be
3 responsive to what Your Honor said. We obviously didn't mean
4 it to come across as kind of snipping for advocacy purposes,
5 and we'll be guided by that comment, obviously, going forward.
6 But we want the Court to know that we're trying to be
7 responsive to what the Court's telling us and not just reargue
8 issues, not just kind of come back on points Your Honor has
9 already spoken on.

10 **THE COURT:** Well, then let's do it this way because I
11 don't -- I mean, a huge portion of your CMC statements were my
12 own statements back to me, so do this: Put a footnote and put
13 a cite, and if I need to see it, I'll go back and see it.

14 But I can also tell you -- you're very good lawyers -- I
15 expect that what you're trying to do is pay attention to what I
16 say. I don't need to spend time reading my own quotes back to
17 myself.

18 **MR. SCHMIDT:** Understood, Your Honor.

19 **MR. WARREN:** Understood.

20 **THE COURT:** Okay. All right.

21 So specifications for the brief. I don't want there to be
22 any precedent that because there are multiple defendants, you
23 are allowed to just take the number of defendants that you have
24 and multiply that by 25 for purposes of determining how many
25 pages of a brief you get. The whole point is to be more

1 efficient. And I don't want that to be a precedent because I
2 have patent cases where I don't let that happen where I have a
3 dozen patent cases and I make all of the defendants file one
4 brief that deals with, let's say, the 101 motion or the, you
5 know -- some basic motion to dismiss, and they get the normal
6 pages and then they get about five extra pages to identify
7 anything that's specific to that defendant. Otherwise, why
8 would I consolidate? Why would I try to coordinate? The point
9 is to be more efficient in your writing.

10 That said, I haven't researched these five states. It
11 sounds like -- not five states, but five claims. It sounds
12 like you have challenges in categorizing or majority vs.
13 minority rules or whatever. Is that right?

14 **MR. WARREN:** Yes, Your Honor.

15 **MR. SCHMIDT:** I don't know if -- on our end if we're
16 going to see those kind of distinctions. I think what we'll
17 see is more what Mr. Warren was alluding to, that there will be
18 some states that have developed law and some where we are
19 drawing on principles like the Restatement. But there will be
20 an effort to try to bring the cases together, either in one
21 bucket or in multiple buckets, if that applies.

22 **MR. WARREN:** Your Honor, if I may, the -- now that
23 we're taking Your Honor's direction that all 50 states will be
24 at issue with these claims, we do think there is some risk that
25 with 25 pages per defendant, they will have the ability to

1 really expound and dig in to each of those variations, whereas
2 if we're limited on our side just in terms of pages, we just
3 may not have the same ability to respond to those variations.

4 **THE COURT:** Well, what I want is one consolidated
5 brief from all the defendants. And then again to the extent
6 that there is something specific about a specific defendant,
7 that should be briefed separately, but what I don't want are --
8 I don't want the defendants to be taking a kitchen-sink
9 approach by everybody doing different things and talking past
10 each other.

11 So the defendants are going to have to coordinate and
12 perhaps -- well, let me ask you, Mr. Warren, what are you all
13 finding in terms of each of these claims?

14 **MR. WARREN:** Well, in terms of the -- there are a lot
15 of different issues at play in the claims in terms of the
16 question of whether these apps are products. There's
17 developed -- very favorable law in the three states that we did
18 identify.

19 There is the Restatement the Third which lays out really a
20 series of policy factors but does indicate that intangible
21 goods, such as software, could be products.

22 The Restatement Second has been applied to -- including in
23 the Ninth Circuit to indicate that software is a product. That
24 would be the *Winter* case in dictum.

25 And then I can't disagree with Mr. Schmidt that there are

1 just many states that haven't spoken to the issue one way or
2 the other nor identified what Restatement approach they would
3 necessarily follow in answering that specific question.

4 **THE COURT:** So do the defendants have a perspective on
5 how they want to structure the legal arguments?

6 **MR. SCHMIDT:** Yes, Your Honor. We are planning to do,
7 I think, hopefully exactly what Your Honor laid out. We have
8 already begun meeting about a drafting process for a common
9 brief that would cover issues common across the defendants, and
10 they're the issues we've been talking about: Is it a product,
11 is there a duty for something that is intangible, issues like
12 that.

13 The negligence per se claim, frankly, is different in that
14 it hinges off of alleged statutory violations, so that's a
15 different stream of briefing. We would include that in the
16 common brief, but it -- it involves different types of
17 arguments than the other arguments and so contributes to the
18 page request that we're making.

19 And then each defendant is considering whether to raise
20 any defendant-specific issues.

21 But our goal is to put everything we can in a common
22 brief, subject to individual defendants looking at what they
23 think they might need to say separately on their own.

24 **THE COURT:** Because with respect to the individual
25 issues, it would seem to me that counts such as fraudulent

1 concealment, negligent concealment, those are going to be --
2 and perhaps unfair trade practices, right, those are going to
3 be a little bit more defendant-specific because they relate to
4 specific conduct of a specific defendant as opposed to the
5 legal viability of something like strict liability.

6 Now, obviously the designs are slightly different, the
7 failure to warn is probably slightly different on both the
8 second and fourth counts, but those kind of individual issues
9 are not what is going to drive; right? That won't drive the
10 answer.

11 Because what I can't do in a motion to dismiss, I can't
12 look at extrinsic evidence. I have to assume that the facts in
13 the Complaint are true. So once you start arguing facts, you
14 lose the argument.

15 And I can tell you, I am not going to -- at this round, I
16 will not -- I will just deny any attempt to incorporate by
17 reference anything that's referenced in the plaintiffs'
18 Complaint to try to have me prove some -- you know, identify
19 some fact and make a factual finding to support a motion to
20 dismiss. I know technically it's a possible avenue, but I'm
21 not going to do it on this round. Understood?

22 **MR. SCHMIDT:** Understood. That's helpful guidance,
23 Your Honor. Thank you.

24 **MR. WARREN:** Your Honor, if I may?

25 **THE COURT:** You may.

1 **MR. WARREN:** I agree with what you said on the
2 concealment and the state protective statutes. I would just
3 note we did not identify either of those among our five best.

4 **THE COURT:** I understand that. That's why I'm saying
5 in terms of the defendants suggesting that they might want
6 individual briefs on some of these things, for motions to
7 dismiss, the individuality matters more on misrepresentations
8 because the misrepresentations are different.

9 **MR. WARREN:** Yes, Your Honor.

10 **THE COURT:** I don't know that a failure to plead
11 sufficient facts works in this case, given that I had to read
12 almost 300 pages. There's plenty there. It's not like the
13 defendants -- they may not agree with your perspective, but
14 it's not like they don't know what you're talking about.

15 **MR. WARREN:** Yes, Your Honor. Well, if I may, from
16 plaintiffs' perspective, what we -- what we care about is
17 parity and the ability to have the same number of pages, so if
18 defendants are able to consolidate their motions into one
19 brief, we would just ask that we get the equivalent number of
20 pages, whatever that number may happen to be.

21 **THE COURT:** Well, I thought that you had agreed on
22 that; right?

23 **MR. WARREN:** Yes.

24 **MR. SCHMIDT:** We agree on that, Your Honor.

25 **THE COURT:** So I thought what you were asking for was

1 defendants want no more than 100 pages and then plaintiffs
2 would get 100 pages, and a reply, 50 pages. Okay?

3 Do I have a date for an opening brief?

4 **MR. WARREN:** I believe it was April 14th --
5 April 17th?

6 **MR. SCHMIDT:** Yes.

7 **MR. WARREN:** April 17th, Your Honor. And I believe
8 our reply was due -- I'm sorry -- our opposition was due
9 June 1st.

10 **THE COURT:** Okay. So defendants' opening brief,
11 April 17th, and that still works?

12 **MR. SCHMIDT:** I apologize.

13 Yes, that still works. And I think June 30th for the
14 reply.

15 **THE COURT:** And opposition?

16 **MR. WARREN:** That would be June 1st, Your Honor. And
17 that does work.

18 **THE COURT:** Okay. Have I given you a hearing date
19 yet?

20 **MR. SCHMIDT:** No, Your Honor. And may we say
21 something briefly on that?

22 **THE COURT:** Sure.

23 **MR. SCHMIDT:** We have wondered how to navigate the
24 hearing date. There's obviously the *Gonzalez* issue pending.
25 We have now had argument. And what we have wondered is we

1 don't know the timing of the decision, of course. At the
2 latest, as we understand it, it will come as our reply comes
3 in. It may come earlier.

4 And what we would suggest, if the Court is agreeable to
5 it, is that we hold off on setting a hearing date until we have
6 more certainty because we do hold out hope that there can be --
7 we're going to be briefing the issues separately per
8 Your Honor's guidance. We do hold out hope that there can be
9 some harmonization as we get near the hearing date depending on
10 how things develop with the timing from the Supreme Court.

11 **THE COURT:** Well, what we can do is -- what I would
12 suggest is that liaison counsel, once the decision comes out,
13 contact the Court, and we can perhaps just have a Zoom hearing
14 to figure out if we're going to have briefing and what that
15 briefing will look like. That seems to make -- that will
16 probably make the most sense.

17 **MR. SCHMIDT:** Okay. Thank you, Your Honor.

18 Your Honor, may I raise one other thing regarding the
19 motions?

20 **THE COURT:** You may.

21 **MR. SCHMIDT:** Our plan is to, as Your Honor gave
22 guidance at the last hearing -- to brief the First Amendment
23 and Section 230 issues separately and later.

24 There is consideration of First Amendment issues in
25 looking at the definition of a product question and then the

1 duty question, and so we -- I think that's a distinct issue
2 from the First Amendment issue we were going to raise. We do
3 intend to put that in our briefs. We didn't want that to be
4 viewed by the Court as briefing differently than how the Court
5 envisioned. We would reserve the actual full-blown First
6 Amendment argument for the --

7 **THE COURT:** And which claims does that refer to?

8 **MR. SCHMIDT:** I think it refers to at least the first
9 four and potentially all five, but certainly the ones other
10 than negligence per se. They all --

11 **THE COURT:** On the issue of duty?

12 **MR. SCHMIDT:** On the issue of duty and not a product,
13 which both kind of grapple with this issue of whether it's
14 intangible, and that intangibility question in the case law is
15 influenced by First Amendment considerations.

16 In the discussions in the case law, it's a pretty
17 high-level issue. It doesn't involve getting into the doctrine
18 in the same way that our First Amendment arguments would so I
19 think it's separate, but I just wanted to flag that for the
20 Court so that it doesn't come as a surprise if we file in that
21 way or if the Court has a reaction, of course.

22 **THE COURT:** Okay.

23 Mr. Warren.

24 **MR. WARREN:** Your Honor, we will have to see what
25 defendants have to say on the issue.

1 The only remaining comment I would add is on the *Gonzalez*
2 question and holding off on a hearing date, we believe
3 Your Honor will have quite a bit to decide based on the
4 briefing for this first round of motions to dismiss. We would
5 prefer not to put off a hearing and hopefully a ruling on those
6 issues.

7 Our understanding is --

8 **THE COURT:** Mr. Warren?

9 **MR. WARREN:** Yes?

10 **THE COURT:** Part of the reason we're going to have a
11 conference is because, as much as I think this is one of the
12 most interesting cases on my docket, it's not the only one.

13 **MR. WARREN:** Very well, Your Honor.

14 **THE COURT:** And I'm in trial for most of June and in
15 July. You know, perhaps those cases will go away but perhaps
16 not. So I've got actually -- I mean, I've got a Google case
17 going to trial in August if it doesn't resolve.

18 So, you know, let's be a little flexible. I promise you I
19 will be working hard, and I will try to get you something as
20 soon as I can.

21 **MR. WARREN:** I have no doubt about that, Your Honor.
22 Thank you.

23 **THE COURT:** Okay. All right.

24 So anything else on these two topics?

25 **MR. SCHMIDT:** Not from the defense, Your Honor.

1 **MR. WARREN:** Not from the plaintiffs, Your Honor.

2 **THE COURT:** Okay. Let's move then to the Complaint,
3 the Short Form Complaint.

4 **MS. SCULLION:** Good morning, Your Honor. Jennifer
5 Scullion, Seeger Weiss, for the plaintiffs.

6 Your Honor --

7 **THE COURT:** Hold on.

8 **MS. SCULLION:** I apologize.

9 **THE COURT:** Go ahead.

10 **MS. SCULLION:** Mr. Schmidt is here again.

11 Your Honor, as we laid out in our letter brief, the
12 approach that plaintiffs have proposed is wholly consistent
13 with the federal rules and with the established precedent in
14 other complex MDLs. As Your Honor has noted, we have a very
15 detailed Master Complaint, it's far more than any of the wholly
16 conclusory or implausible claims in some of the cases that
17 defendants have cited, detailed the multiple features in each
18 of the defendants' products that plausibly create a defective,
19 dangerous product that is addictive and otherwise dangerous to
20 children.

21 We have plausibly laid out, based on agency conclusions,
22 researchers, some of defendants' own documents and statements,
23 the plausible connection between the use of these products by
24 children and the harms that we allege for the plaintiffs.

25 And consistent with other MDLs, we have proposed a simple,

1 Short Form Complaint. It is not simply a "Me Too," but
2 consistent with notice pleading and other MDLs, it identifies
3 obviously the plaintiff. It does say which products they've
4 used and identifies the signature injuries, as well as a box
5 for other injuries.

6 Your Honor, we believe this is sufficient. It is
7 consistent with what we understand Your Honor had intended in
8 terms of streamlining. It certainly gives defense more than
9 enough notice of what is at issue here.

10 The defendants say that they want much more, and I think
11 it's -- it's telling that -- on page 3 of their letter brief,
12 they say they want more in order to prepare their defenses on a
13 plaintiff-by-plaintiff basis.

14 **THE COURT:** Now, I --

15 **MS. SCULLION:** Respectfully, we're just not there at
16 this juncture. And, Your Honor, we obviously will get there,
17 and -- we hope we'll get there. I shouldn't say that. We hope
18 we will get there, but we're not there at the moment. And I
19 think -- I'm sorry. Go ahead.

20 **THE COURT:** Mr. Schmidt, on this one I think I'm
21 siding with the plaintiffs.

22 The information you're asking for, all relevant if this
23 case is moving forward. My suggestion would be that if this
24 case makes it past the motion to dismiss stage, what I could do
25 is if you want to work on a separate filing that says within,

1 you know, 45 days of the Court's order denying the motion to
2 dismiss, you'd have to provide this kind of basic information,
3 I think that something like that is fair. I don't think we
4 need it now, but certainly if the thing is moving forward, then
5 I think individuals need to start thinking about their
6 individual cases. And maybe it's not 45 days. Maybe it's 90
7 days. I don't know. Now that I know you're quoting me back to
8 me, I'm not saying anything --

9 (Counsel talked over the Court.)

10 **THE COURT:** Right. I don't know specifically, but it
11 seems to me that this is something that should happen after we
12 know that there is actually a claim that is proceeding, and
13 plaintiffs are on notice that this is the kind of information
14 that they're going to have to provide for each of their
15 clients.

16 **MS. SCULLION:** Your Honor, that's acceptable to us,
17 too, obviously to engage with defendants, meet and confer, and
18 try to figure out a timing and a process that will get them the
19 information that they need, as well as obviously we hope to be
20 discussing at that point additional discovery for the
21 plaintiffs.

22 **THE COURT:** So my only question -- well, do you wish
23 to be heard, Mr. Schmidt?

24 **MR. SCHMIDT:** Just one point that we didn't make in
25 our -- in our papers, just so the Court understands where we

1 are coming from, although I'm sure the Court does from what we
2 did file.

3 This is a very complicated MDL. We see that in the Master
4 Complaint. And what we really geared our Short Form Complaint
5 around was trying to understand what -- how that complexity in
6 the Master Complaint applies on a plaintiff-by-plaintiff basis,
7 so when they go through all these design issues, how does that
8 apply to any plaintiff which any plaintiff would have to do if
9 they file their own Complaint. When they go through and we
10 hinge the appearances to their Complaint allegations, how does
11 that apply to individual plaintiffs. That's what we were
12 aiming to do --

13 **THE COURT:** Remember, too, if there is a product
14 design -- let's take, you know, cigarettes that are addictive,
15 that are known to be addictive. The plaintiff doesn't
16 necessarily know the -- what makes these things addictive.
17 Plaintiffs don't necessarily know that the corporations knew
18 that they were addictive, that they used certain language
19 because their marketing team told them that that was going to
20 be addictive. You know, that's what experts are for.

21 So much of the discussion in the Complaint is a reaction
22 to what people see, but that doesn't necessarily mean that each
23 individual plaintiff is going to know that. And many of the --
24 many of the little issues that features or functions, for
25 instance, you know, I -- because I don't use these, I don't

1 know whether they're properly grouped. Perhaps if you use, you
2 know -- like on an iPhone Message, right, there are five
3 options when you're responding to messages. Maybe you use one,
4 maybe you use two, not that that's addictive. I'm just saying
5 that sometimes you're given a host of options, and so does that
6 mean that you have to remember back to every single one that
7 you're using when any one of the five would be sufficient?

8 I just -- I don't know. All I'm suggesting is that there
9 are important issues that you've identified. We should be able
10 to figure something out, but really we don't have to get there
11 until we've figured out the legal issues.

12 **MR. SCHMIDT:** We hear what Your Honor is saying. What
13 we were guided by and how this is different than, I think, the
14 cigarette example is they have pled in their Complaint, in the
15 Master Complaint, a lot of detail about what they say is
16 addictive, and it's detail that is really salient to whoever is
17 using the app. It's "Do you use the news feed?" That's
18 something they know. "Did you experience cyber-bullying?"
19 That's something they allege in the Master that they would
20 know.

21 Those are facts that they know, and they're very, very
22 different. They key off of, I think, what makes this MDL
23 unique, which is these experiences that people have on these
24 apps are so individualized, those are things they would know.
25 And that's where we were going.

1 But we hear Your Honor. I'm not trying to argue the point
2 if Your Honor has reached a ruling. But I want the Court to
3 know that's what was motivating us.

4 **THE COURT:** I think the additional thing is, again,
5 it's put the plaintiffs on notice that something like this is
6 probably appropriate, right, and so you may have your own
7 groupings. If we end up one day having bellwether trials, then
8 it could be that we're going to have to group these individuals
9 into certain categories, and maybe it's TikTok users and maybe
10 they're -- so maybe there's a group of features. I don't -- I
11 don't know. You all know your cases better, but I do think
12 that's step 2, not step 1.

13 **MS. SCULLION:** Your Honor, and we agree with that.
14 That's a decision further down the line, and I think discovery
15 will inform what groupings would be appropriate, as will
16 experts, etc. So we understand Your Honor's direction, and
17 we'll work with the defendants on the next phase if we get
18 there.

19 **THE COURT:** Okay.

20 One thing that occurred to me, though, as I was reading
21 all of the material you provided me, was whether the Short Form
22 Complaint should have a question about the date of an
23 originally filed and transferred Complaint because that seems
24 to be a distinction that people are making in terms of the
25 statute.

1 **MS. SCULLION:** Your Honor, the proposed implementing
2 order addresses the question of what is the applicable date. I
3 don't think we would have a -- I don't think we have a
4 problem --

5 **THE COURT:** Is there any need to have it in the Short
6 Form?

7 **MS. SCULLION:** I don't think there is a need, but it
8 may add clarity, and we would be happy to do that.

9 **THE COURT:** So that was the only thing that you seem
10 to be dealing with in other orders, but for each individual
11 Complaint, we didn't have that in the actual Short Form
12 Complaint.

13 **MS. SCULLION:** Understood. We can do that.

14 **THE COURT:** The other question related to the name of
15 the plaintiff, the name, if applicable, of the guardian
16 ad litem, and that actually dovetails to the issues.

17 With respect to -- right, this is a public proceeding, and
18 I am always reluctant with defendants to seal material, and I
19 am reluctant with plaintiffs to seal your material.

20 In the orders with respect to guardians ad litem, it seems
21 to me that a lot of this information in the actual order itself
22 should be disclosed, but if it's disclosed in the Short Form
23 Complaint, then perhaps it's fine to do this all in a sealed
24 context.

25 The last name of the guardian ad litem, I don't see why I

1 should seal that. And their city or state. Lots of people
2 have the same last names.

3 Funny story. When I went to Princeton, there are not a
4 lot of Hispanics up there, and somebody called during Christmas
5 break and asked information for someone with the last name
6 "Gonzalez." In San Antonio, that person would laugh at them.
7 There are a lot of Gonzalezes, there are a lot of Smiths, there
8 are a lot of Browns; right?

9 So why are we trying to seal that information?

10 **MS. SCULLION:** Your Honor, if I might, my colleague,
11 Ms. Anderson, could address this.

12 **THE COURT:** Ms. Anderson, good morning.

13 **MS. ANDERSON:** Thank you, Your Honor.

14 The concern was that there are several components that,
15 taken together, can lead to discovery of the minors' identity.

16 I appreciate your suggestion, and we thought because there
17 were 75 applications being filed at once with a lot of
18 information that we believe should be sealed, that sealing the
19 entire application would promote efficiency and that it doesn't
20 really promote any public interest to have those documents
21 filed publicly.

22 That said, we can go back and redact information if you
23 believe that the applications themselves should be on the
24 public record.

25 **THE COURT:** What I think is that something has to be

1 on the public record.

2 The other way to do this is to have the order have the
3 template of what the application contains, and that way the
4 public knows what's there; right? They know what the questions
5 are, they know what information the Court is getting. It can
6 be blank, but at least they know.

7 If, then, the Short Form Complaints are going to give the
8 information that is not and should not be sealed, like the last
9 name of the guardian ad litem, like their state of residence --
10 I don't know necessarily that the city is required, but
11 certainly the state. We are dealing with states' laws.
12 Individuals in those states may want to know how many people
13 from their state are part of this. The likelihood that those
14 two pieces of information would lead to finding an adolescent I
15 think is small to none.

16 **MS. ANDERSON:** Understood, Your Honor.

17 So we are happy to provide a more robust proposed order.
18 It sounds as though if we are including that information in the
19 Short Form Complaint, that you aren't requiring resubmitting
20 redacted applications at this time. Is that an accurate
21 summary?

22 **THE COURT:** So what I'm saying is that if I get that
23 information in the Short Form Complaint, then you don't have to
24 go through the administrative burden of redacting, as long as
25 there is a template attached to the order that identifies for

1 the public what information is in those ex partes applications
2 and that has in fact been submitted to the Court.

3 **MS. ANDERSON:** Yes, Your Honor --

4 **THE COURT:** I think that that is an appropriate
5 balance.

6 **MS. ANDERSON:** We can definitely do that, Your Honor.

7 **THE COURT:** Do you wish to be heard?

8 **MR. SCHMIDT:** No, Your Honor. If there is going to be
9 a new submission, I think we would like the opportunity just to
10 confer, but this isn't our issue so I don't expect it will be
11 an issue.

12 **THE COURT:** Okay. So I need either Ms. Simonsen --
13 did I say that right --

14 **MS. JONES:** Simonsen, Your Honor.

15 **THE COURT:** And, Ms. Anderson, if you'll take a list
16 of what we'll be doing after this so we can have a
17 comprehensive list. All right.

18 Those were the only things that I had on the Short Form
19 Complaint.

20 **MR. SCHMIDT:** Thank you, Your Honor.

21 **MS. SCULLION:** Thank you, Your Honor.

22 **THE COURT:** Okay. The coordination order.

23 **MS. HAZAM:** Yes, Your Honor. Lexi Hazam for
24 plaintiffs.

25 With regards to a proposed coordination order, the parties

1 have begun to meet and confer on the topic. Both parties have
2 acknowledged the advantages of coordination, particularly in
3 the realm of discovery. And the judge who has been appointed
4 to handle the JCCP in the California state courts has
5 recognized that as well so our --

6 **THE COURT:** Everybody should know Judge Kuhl and I are
7 friends. We are members of the Council for the American Law
8 Institute together, and we are already talking, to the extent
9 that we should, that if there are ever efficiencies in having
10 joint proceedings, we will consider doing that. I think mine
11 is significantly bigger than hers at this point, unless there
12 have been more cases filed in the state. The last time I
13 talked to her about the issue, I think there were only less
14 than 30.

15 **MS. HAZAM:** It is -- remains the case, Your Honor,
16 that the MDL has significantly more cases than the JCCP, I
17 believe at least three times as much at this point.

18 And Judge Kuhl did inform us of the same thing that
19 Your Honor just referenced, and we're obviously happy to have
20 the judges cooperating, as we hope to do with the other side.

21 **THE COURT:** Well, we want you all to know that you
22 can't play each other -- you can't play us off each other
23 because we communicate regularly.

24 **MS. JONES:** Understood, Your Honor.

25 **MS. HAZAM:** Understood.

1 **THE COURT:** Anything else you want to do with respect
2 to that, or is it more informative? I don't think I have a
3 proposed order on this issue yet; correct?

4 **MS. HAZAM:** You do not because the parties are still
5 meeting and conferring. The parties propose submitting an
6 order on March 17th, and I don't believe that there is further
7 matters that we would want to address on this today.

8 **THE COURT:** Okay.

9 **MS. JONES:** I think that's right, Your Honor. If
10 there is anything -- if you have any conceptual guidance that
11 you want to offer to us as we are working through that order,
12 we are happy to hear that today, but we can also work amongst
13 ourselves and submit something.

14 **THE COURT:** No, I don't.

15 **MS. JONES:** Okay.

16 **THE COURT:** The next thing you wanted to discuss were
17 discovery orders, or is that combined with the consolidation?

18 **MS. HAZAM:** We could move to that, Your Honor.

19 The next item in the status conference statement is
20 defendants' proposed filing requirements but happy to move to
21 the discovery orders, if Your Honor wishes.

22 **THE COURT:** No. Filing requirements is fine. Go
23 ahead.

24 **MS. JONES:** I'm happy to start on that issue,
25 Your Honor. And Mr. Seeger and we spoke briefly before the

1 conference this morning.

2 I think what would probably be most helpful, from our
3 perspective, is for the parties to have an opportunity to
4 further confer on this topic. We've made a proposal to them.
5 I don't think we've yet had a meaningful opportunity to meet
6 and confer about their concerns about that proposal, how we
7 might be able to reach a possible resolution.

8 Just for purposes kind of the broader idea at the highest
9 conceivable level, what we've contemplated here is it's not an
10 effort to prevent plaintiffs' counsel from filing their cases.
11 It's not a lone pine order, as they suggest in the CMC
12 statement.

13 What we've really been looking to do is to ensure that for
14 every case that comes into the MDL, whatever that number ends
15 up being, that someone has conducted basic Rule 11 diligence to
16 ensure that there is a basis for the facts as they've been
17 asserted.

18 So we're happy to talk more about what that might look
19 like, but we think it's pretty important in any MDL and in
20 particular in a case like this one.

21 **THE COURT:** And I don't disagree, but I think the
22 plaintiffs have also made a legitimate point, right, that most
23 of the plaintiffs right now are being represented by members of
24 the steering committee. And, two, again, if -- it is a bigger
25 issue if this case proceeds. It is less of an issue if it

1 doesn't.

2 So by the time we get to that point, I may have some
3 perspectives. At this point, I don't have any additional
4 perspectives for to you consider.

5 **MS. JONES:** I think that's helpful for us, Your Honor.

6 With your permission, we would like an opportunity to
7 continue to discuss the possible contours of an order, but we
8 understand where you stand today.

9 **MS. HAZAM:** As do we, Your Honor.

10 **THE COURT:** All right.

11 **MS. HAZAM:** Thank you.

12 **THE COURT:** Okay. Next.

13 **MS. HAZAM:** Next would be the discovery-related
14 orders, item 6 in the status conference statement.

15 The parties reported on the status of their
16 meet-and-confers with regards to these orders and dates by
17 which they will submit agreed-upon orders or disputes to the
18 magistrate judge. We are happy to address any questions or
19 concerns Your Honor may have.

20 **THE COURT:** Anything?

21 **MS. SIMONSEN:** Nothing further, Your Honor.

22 **THE COURT:** Magistrate Judge Hixson is an excellent
23 judge. I am sure he will handle all of your matters in an
24 excellent manner. I have nothing to add to that.

25 **MS. HAZAM:** Thank you, Your Honor.

1 **THE COURT:** Okay. Mediator.

2 I can't believe you all couldn't figure this one out. I'm
3 going to figure it out for you unless you are telling me that
4 you've figured this out. Yes or no?

5 **MR. SEEGER:** We have not figured it out.

6 **MR. SCHMIDT:** No, Your Honor.

7 **THE COURT:** Then what you are going to do is you are
8 going to, while you're here, write down on a piece of paper one
9 from each list and then give it to me. All right? That's the
10 answer. And then I'll decide.

11 **MR. SCHMIDT:** And, Your Honor, I think we had a point
12 of disagreement as to which list the pick would come from. We
13 had proposed --

14 **THE COURT:** You pick from -- you pick one from your
15 list and one from their list.

16 You pick one from your list and one from their list.

17 I want you to put it on a piece of paper. I don't know
18 your handwriting. I don't want you to tell me who it came
19 from. And you'll put those pieces of paper together, and you
20 will hand them to my courtroom deputy, and she will hand it to
21 me.

22 **MR. SCHMIDT:** Okay.

23 **THE COURT:** And then I'll let you know.

24 **MR. SEEGER:** Thank you, Your Honor.

25 **MR. SCHMIDT:** Understood.

1 **THE COURT:** Okay. Thank you.

2 Common benefit, I think, is next.

3 **MR. SCHMIDT:** I'm sorry to belabor that. So we will
4 each be submitting two, one from each side?

5 **THE COURT:** Yes.

6 **MR. SCHMIDT:** Okay. Thank you, Your Honor.

7 **THE COURT:** Sorry. I didn't think I was not clear.

8 All right. Next is common benefit. Pierson from the
9 defense; is that right?

10 **MR. SEEGER:** So, Judge, we have sent this to you. If
11 you remember the last time we were here, the defendants had
12 some concerns about certain aspects of what we submitted.

13 I think that we -- we have made -- as a result of our
14 meeting and conferring on their concerns, we've made a couple
15 of changes.

16 One change had to do with making it clear that the amount
17 of any common benefit assessment holdback is subject to
18 Your Honor's approval. I mean, we thought that was the law
19 anyway, but we wrote it in just to make it really clear. We
20 didn't expect Your Honor would just rubber stamp whatever you
21 are going to consider.

22 The second part that we compromised on is on the reporting
23 requirements for the defendants. They -- we have moved those
24 to make them quarterly so if they begin to settle cases around
25 the country and we don't do a global settlement, a non-class

1 global settlement which would be before you, and they make
2 their own individual settlements, they've got to report to us
3 on a quarterly basis and let us know who the settlements are
4 with so that the proper amount can be set aside in an escrow
5 account.

6 **MS. PIERSON:** Your Honor, Andrea Pierson from Faegre
7 Drinker.

8 We have nothing to add. We were able to confer with
9 Mr. Seeger, and we believe we've reached agreement.

10 **THE COURT:** Okay. That's fine.

11 I did have a few little technical things, or maybe not so
12 technical, that I do want you to change in terms of costs. You
13 may not like this, but --

14 **MR. SEEGER:** Okay.

15 **THE COURT:** -- if it's good enough for federal judges,
16 it's good enough for plaintiffs' lawyers. And that is that
17 domestic flights longer than four hours, you ride in coach.
18 You want to go to business, you'll have to pay for it on your
19 own. That's what I have to do. That's what every federal
20 judge has to do, and I'm sure it's what most members -- most of
21 your plaintiffs probably aren't flying business, so if you bill
22 them a few hours, I'm sure that will pay for the cost of the
23 flight, but business -- you know, and it was partly -- maybe
24 it's the wrong time for you. I happen to be looking at a
25 number of flights to D.C., and they are like four to five times

1 the cost of coach, so I just don't think it's appropriate.
2 Obviously you tall people want to sit in the front, but you'll
3 have to pay for it.

4 No alcohol. Do not bill alcohol. Meals are appropriate.
5 Alcohol is on you.

6 Does anybody check the cost of phone calls anymore?
7 Really? It's almost like the fax question. Does any plan that
8 anybody has do it by individual phone calls? And are you
9 really going to track that?

10 **MR. SEEGER:** No, I don't think so. We don't -- I
11 don't even think offices track that anymore, do we?

12 **THE COURT:** So I don't know how I can put that in an
13 order.

14 **MR. SEEGER:** That's an artifact of old --

15 **THE COURT:** I don't know how I put that in an order.
16 I do see -- if I travel internationally, I do get the list of
17 phone calls, but -- yeah. I don't know how I can -- unless you
18 can explain to me what you're going to do, I don't know how I
19 put that in an order.

20 **MR. SEEGER:** I think we'll delete it.

21 **THE COURT:** That would be good. Okay.

22 Those were the only small things that I had.

23 **MR. SEEGER:** Thank you, Your Honor.

24 **THE COURT:** So if you will send us a revised version,
25 I can issue that order.

1 Sealing, the bane of all federal judges. Sealing.

2 So I think our concern with this is whether there was just
3 one step too many on the actual copy. It seems to me that if I
4 enter an order with the process -- you all don't see them, but
5 any time you file something on ECF that is something I have to
6 do, the way we see it on our screen is it has a little gavel.
7 I hate gavels. I like to get rid of all my gavels. I hate
8 them. And maybe that is an addictive kind of thing. I don't
9 know. Maybe that's why they do it to us, so we get rid of
10 them. I hate little gavels.

11 So it seems to me that you're automatically filing
12 anything on the docket where one party has designated the
13 information as confidential, and you're doing that as part of
14 your filing, whatever the filing is. But there has to be
15 meet-and-confer before I really get to the thing that I need to
16 do.

17 So my preference would be to have an order that says you
18 get to do that without having to identify it as a gavel. So I
19 don't want the gavel until you've filed it, you've met and
20 conferred, you've withdrawn, and I then get some omnibus order
21 at the end that addresses all of them in one comprehensive way
22 with hyperlinks, and that's the only gavel I want to see.

23 Does that make sense?

24 **MS. SIMONSEN:** It does, Your Honor. I think we can
25 accomplish that, subject's to plaintiffs' point of view. I

1 think some of the preliminary steps we outlined could probably
2 be accomplished through notices of filing that would not create
3 a gavel, and so that would be sort of a notice of filing that
4 something is going in provisionally under seal, notice of
5 filing of the redacted version of that document as redacted by
6 the parties whose confidential information is at issue, and
7 then we wait until the conclusion of briefing on a motion that
8 implicates all of that confidential information to file a
9 motion to seal following conferral with the other side. I
10 would think that would be something we could accomplish.

11 **MR. WARREN:** I think that's very close to what we --
12 we have agreed to, and we want to take away the gavels, too, so
13 we will work on that.

14 **THE COURT:** So the great thing about this is if you
15 will work on an order, I'm going to save the order, and I'm
16 going to issue it in all of my big cases because, really, it
17 is -- the amount of work and complications that are caused by
18 these motions to seal is -- it takes us hours and hours when
19 really our time could be better spent somewhere else.

20 **MR. WARREN:** We completely agree, and we -- frankly,
21 the parties and the litigants feel the same burden, which is
22 why we were really pleased we were able to reach agreement on
23 this.

24 **THE COURT:** Okay. So that -- that's the goal. What
25 I've articulated is the goal, which is to go ahead, you file

1 your stuff under seal, you have your deadlines, people provide
2 the answer -- you meet and confer, whatever, with the goal
3 being at the end I -- you tell me what it is I actually have to
4 decide.

5 And I do want the hyperlinks because it makes it faster.

6 **MS. SIMONSEN:** Understood, Your Honor.

7 **THE COURT:** Do you know what I mean by that?

8 **MR. WARREN:** No, Your Honor, I don't.

9 **THE COURT:** So you can set up global orders with links
10 to the docket, I believe, or -- or maybe you have to refile
11 them one time with the links so that we can click on something
12 and go to the information that we have to figure out do we
13 agree with your assessment or not. Maybe you want to talk to
14 your paralegals. Maybe I'm not explaining it right --

15 **MS. SIMONSEN:** I certainly understand what you are
16 referring to, Your Honor. I know we have done this with
17 briefs, not necessarily related to sealing, and I think we can
18 accomplish something similar here. Perhaps we can confer and
19 make sure we are settled on a procedure for that that will work
20 from the Court's perspective.

21 **MR. WARREN:** That's clear.

22 **THE COURT:** Okay.

23 Mr. Warren.

24 **MR. WARREN:** Yes. I think that's fine. We will
25 continue discussing. I think we can solve this, and it should

1 be doable. It's possible we may want to contact chambers just
2 to get guidance on how it will show up on your end so we're
3 doing this the right way one time and then we can submit it to
4 you.

5 **THE COURT:** Okay. That would be great; otherwise, I'm
6 all in favor of the streamlined process. Okay?

7 **MR. WARREN:** Thank you.

8 **THE COURT:** Okay. What else do we have?

9 **MS. HAZAM:** Your Honor, Lexi Hazam for plaintiffs.

10 The only other item in the status conference statement is
11 number 9, other updates in which the parties reported on
12 several recent filings by school districts, some of which have
13 now been made a part of this MDL. That was for informational
14 purposes. We are happy to address anything regarding that or
15 any other matters that the Court may have.

16 **MS. JONES:** I agree with plaintiffs' counsel, that
17 that was more an informational update than anything else.

18 **THE COURT:** Okay. I take it that the medical records
19 collection, that was another -- that was another issue that I
20 saw out there. Did that relate to the filing requirements? Is
21 that what you were thinking about?

22 **MS. JONES:** I think so, Your Honor. And as we
23 discussed just a moment ago, I think we can probably spend some
24 more time with each other between the plaintiffs and the
25 defendants kind of figuring that out.

1 **MS. HAZAM:** Yes, Your Honor. That was part of the
2 defendants' proposed filing requirements --

3 **THE COURT:** Okay.

4 **MS. HAZAM:** -- section.

5 **THE COURT:** Okay. So let me just, before -- I didn't
6 have anything else. You went through my list.

7 Let me just pull up your docket.

8 I'm glad that the earlier time worked for you all. As you
9 all can imagine, when we're in trial, we never exactly -- well,
10 in a criminal trial, we never exactly know when we are going to
11 be done.

12 **MS. JONES:** Your Honor, for the folks on the East
13 Coast, I cannot overstate how enthusiastic folks were to
14 receive that email, so thank you very much for accommodating
15 us.

16 **THE COURT:** I assumed that it would be helpful, and I
17 was just going to be sitting here waiting for you to come in in
18 the afternoon.

19 **MS. JONES:** Well, we appreciate it very much.

20 **MS. HAZAM:** That goes for our side as well,
21 Your Honor. Not me personally but others.

22 **THE COURT:** Okay. We weren't supposed to be taking
23 closings until today, and we took them early, so . . .

24 Okay. So as I'm looking at my gavels, 148 -- 147, 148,
25 and 149 are all about the guardian ad litem, so who is dealing

1 with the guardian ad litem again?

2 **MS. HAZAM:** That would be Ms. Anderson for plaintiffs.

3 **THE COURT:** Okay. So, Ms. Anderson.

4 **MS. ANDERSON:** Your Honor, now that I know that you
5 hate the gavels, I am sorry that there is one redundant issue,
6 and that was because Local Rule 7-11 requires a stipulation or
7 a declaration why a stipulation could not be made that seemed
8 separate from the declaration that we also attached the
9 proposed order to.

10 **THE COURT:** So that's -- hold on. Let me just pull it
11 up. Is that 148?

12 **MS. ANDERSON:** One moment.

13 **THE COURT:** And it's not that I hate them. They're
14 actually very useful to tell me what I need to do. It's just
15 that I am neurotic and like to get my stuff done. Actually, I
16 probably shouldn't have said that on the --

17 **MS. ANDERSON:** I apologize. I don't have the
18 file-stamped copies with me. That was -- they were not printed
19 out for me.

20 But essentially there are two orders, one is the sealing
21 order and one is the guardian ad litem order, that the parties
22 have met and conferred on, and that has also been submitted
23 with the guardian ad litem motion itself. However, I know that
24 Your Honor would like a -- an altered proposed order, so what I
25 would suggest is that I will confer with defense liaison

1 counsel, and we will submit a new proposed order and
2 stipulation.

3 **THE COURT:** Okay. So 147 regards the motion to file
4 under seal the actual applications.

5 **MS. ANDERSON:** Correct.

6 **THE COURT:** All right. And with respect to that, what
7 I'm going to get from you is a revised order that attaches as
8 an exhibit the form of the application?

9 **MS. ANDERSON:** Correct.

10 **THE COURT:** Okay. So I'm waiting for a revised -- and
11 you can just send that -- you can just send that to our email
12 box. You don't have to file that. Okay? As long as liaison
13 counsel agrees.

14 **MS. ANDERSON:** Okay.

15 **THE COURT:** So we will look for a revised 147-2.

16 Then with respect to the order to seal the applications
17 themselves, that's granted. And then the consolidated motion,
18 that will be granted. All right.

19 **MS. ANDERSON:** Thank you, Your Honor.

20 **THE COURT:** So I'm waiting on one for you. The other
21 two will be granted.

22 **MS. ANDERSON:** Thank you.

23 **THE COURT:** Then I see on here -- all of these motions
24 regarding sealing -- 143, 134, 135, and 137 -- are those for
25 me, for Magistrate Judge Hixson? What are they?

1 **MS. SIMONSEN:** Your Honor, the various sealing motions
2 relate to the Master Complaint. We had understood that
3 Your Honor was resolving those sealing motions. We, of course,
4 defer to you as to whether those should go to Magistrate
5 Judge Hixson instead.

6 **MR. WARREN:** And, Your Honor, if I may, there is
7 unlikely to be really any dispute around those. We've heard
8 from defendants on what information they wish to remain sealed,
9 and TikTok and I believe Snap said that none of the information
10 at issue needs to remain sealed. Meta has identified, I think,
11 just four or five names, and we will not oppose the redaction
12 of those names.

13 **THE COURT:** Okay.

14 **MR. WARREN:** So we ought to be able to resolve that
15 quickly.

16 **THE COURT:** All right. So I'll double check. I read
17 it with all of the highlights, but we'll get those out. Okay.
18 Thank you.

19 **MS. SIMONSEN:** Thank you, Your Honor.

20 **THE COURT:** And then I think that's it. Okay.

21 **MS. ANDERSON:** Your Honor, Jennie Lee Anderson on
22 behalf of plaintiffs.

23 I just wanted to clarify because I realized, as I was
24 sitting down, that you said that two orders will be granted
25 with respect to the sealing and the guardian ad litem. I

1 believe at this time you will just be following through on
2 your -- on your order from the bench to seal the documents.
3 The other two orders are the same order. One was just attached
4 to the stipulation as required by 7-11.

5 **THE COURT:** Okay.

6 **MS. ANDERSON:** Thank you.

7 **THE COURT:** And then I actually -- you won't see those
8 orders -- the objection period hasn't passed. I'm not sure we
9 are going to get objections, but I do need to wait for the
10 objection period to pass.

11 Okay. Do you want to set a date on the calendar for the
12 summer? Or do we just wait until we hear about *Gonzalez*?

13 **MS. JONES:** I think from our perspective, Your Honor,
14 we would be inclined to follow the guidance you offered earlier
15 in terms of seeing what happens in *Gonzalez*, having an
16 opportunity for probably a Zoom conference with the Court on
17 what to do in light of that.

18 **MR. WARREN:** That's fine with plaintiffs as well,
19 Your Honor.

20 **THE COURT:** Okay. And -- all right. Then we will --
21 I'll just wait -- well, we are all waiting to get that decision
22 from the court, and then I'll hear from liaison counsel.

23 Okay. Anything else then? Not from the plaintiffs?

24 **MR. WARREN:** No, Your Honor.

25 **THE COURT:** Not from the defense?

1 **MS. JONES:** No, Your Honor.

2 **MR. WARREN:** We do have our name list to hand you, if
3 we haven't already.

4 **THE COURT:** What's that?

5 **MR. WARREN:** We do have the names.

6 **THE COURT:** Can I have the pieces of paper?

7 **MR. SCHMIDT:** Your Honor, on our end, if we could have
8 a few minutes to confer among the different defendants, I would
9 appreciate that.

10 **THE COURT:** That's fine. I will leave the room, and
11 then you can give it to her when I'm gone.

12 Everybody have safe travels. We're adjourned.

13 (Proceedings adjourned at 10:21 a.m.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Monday, March 6, 2023

Pamela Batalo Hebel

Pamela Batalo Hebel, CSR No. 3593, RMR, FCRR
U.S. Court Reporter